

**MINUTES OF THE REGULAR MEETING OF THE
BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS**

FOR MARCH 21, 2007

Chief Executive Paul Babb called the Regular Meeting of the Council of Commissioners to order Wednesday, March 21, 2007 in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana.

ROLL CALL

10 present, 2 absent (Commissioners Coleman and Mulcahy were excused.)

PRAYER

Commissioner Foley led the commissioners in prayer.

**APPROVAL OF THE MINUTES OF THE
MARCH 21, 2007 REGULAR MEETING**

It was moved by commissioner O’Leary, seconded by commissioner Lee and carried by a unanimous verbal vote to approve the Minutes of the March 7, 2007 Regular Meeting and the Minutes of the March 14, 2007 Special Meeting.

ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES

None

**PUBLIC COMMENT ON ANY PUBLIC MATTER
NOT ON THE AGENDA**

None

CHIEF EXECUTIVE’S REPORT

Chief Executive Babb noted the \$700 million sales contract secured by REC Silicon (formerly ASiMI); also that Butte is still in the running for their \$500 million expansion, which will create 100 or more new jobs.

Mr. Babb also noted the progress of the Study Commission's recommendations as approved by the voters in November. Dan Dennehy is the lead on moving these recommendations forward but the main concern is the cost of animal control; a report will be forthcoming soon.

The Chief Executive thanked and congratulated Law Enforcement, Public Works and the Fire Department for their team effort in making St. Patrick's Day a great success.

Mr. Babb also noted that the Daredevils will be returning to the Civic Center next year.

Chief Executive Babb discussed having met with County Attorney McCarthy regarding the Law Enforcement Commission, specifically that he had written letters to all the current members, noting the expiration of their terms as: Cass and Fogarty in 2008; Thomas and McCormick in 2009 and Fleming in 2010. He also discussed the matter with those he had intended to appoint in 2007, all of who are willing to wait for a future appointment.

SECTION I

PUBLIC HEARING

FOR THE PURPOSE OF AMENDING THE FY 06-07 BUDGET TO RECEIVE UNANTICIPATED REVENUE FROM THE MONTANA DEPARTMENT OF TRANSPORTATION. (Communication 07-0133 being held in Committee of the Whole). Proof of publication was noted by Clerk & Recorder McMahan who indicated it would be forwarded to the County Attorney for review and approval.

Jeff Amerman, Finance & Budget Director, gave the staff report for Sheriff Walsh. Amerman indicated the request is to amend the 06-07 budget for monies from the MT DOT - \$16,0000 with a "no match requirement" to purchase three vehicle video cameras and breathalyzers. He also indicated there is a rollover from last year's Step Program of \$1773 which will be used for staff only for the DUI and seat belt programs.

The public hearing was opened at 7:48 PM and Chief Executive Babb called for proponents. On the third and final call, there being none, he called for opponents. Again, there was no response so Babb closed the public hearing at 7:49 PM.

SECTION II

PRESENTATION COMMUNICATION NO. 07-171

RANDY FARRIS, FARRIS CONTRACTING, REQUESTING TIME ON MARCH 21, 2007 AGENDA FOR PRESENTATION AND REQUEST FOR TAX ABATEMENT.

Randy Farris, now of 17918 N. Ridgewood Rd, Colbert, WA (near Spokane) presented his personal background information. An Anaconda native, he was a Butte residential contractor 1992-2002; developed the 12 unit apartments behind the Post Office on Dewey Blvd.

Farris is proposing a 24-unit upscale apartment complex for a total of 25,400 square feet west of the Longfellow School; each being 2 bedroom, 2 bathroom at 1100 square feet and renting for \$700-\$800 per month. He estimated the value of his project at \$206,000 for the land and \$1,200,000 for the complex. Farris noted the west portion of the land will be groomed for future development and would provide construction and trade jobs for 9-12 months. He's working with Brandon-Legg for the purchase of the property North of Legion Oasis. Farris gave a power point presentation showing a sample of the type of building he would construct. He has hired a local engineering firm and has initial approval for the project. He estimated 5 acres being in the flood plain but the area is zoned multi-family. Farris also noted that the infrastructure is already in place.

Farris noted the DOR calculation of \$22,400 per year, of which he requested a tax abatement of \$60,594 over 10 years. The land is now generating \$8,000 over 10 years. Chief Executive Babb noted tax abatements are allowed by law, and that B-SB has a Review Committee in place covering Planning, Public Works, Council and the Chief Executive. Commissioner Sorich asked Farris if he would build the complex himself. He responded that he plans to move back to Butte and do the building.

Commissioner Shaw questioned the rent of \$700-800 when his letter to Council was a "downer" relating to Butte housing. Shaw felt that "luxury apartments" was a conflict of words relative to his letter.

Commissioner Frasz expressed concerns with the flood plain, as that is his District and his neighborhood.

Commissioner O'Leary questioned Russ Connole whether the flood plain could be compressed down to something that can handle such a development. Connole indicated the flood plain is an issue. Brandon-Legg has owned the land for some time and hired HKM to analyze the area. Per Connole, the only step left is to comply with FEMA. B-SB has a flood plain permit (100 years) in place and Farris was advised of the FEMA requirement – if the project is in the flood plain, the feds require insurance when financing.

Commissioner Sheehy asked whether the number or size of the project could be reduced; Connole responded that it would affect parking.

Chief Executive Babb discussed the housing situation in Butte, noting his ad-hoc committee met to discuss capital improvements and housing must be in order; Babb felt it's a great way for B-SB to contribute.

It was moved by Commissioner O'Leary, seconded by commissioner Lee and carried by a unanimous verbal vote to refer the matter to the Tax Abatement Committee and place Communication No. 07-171 on file

SECTION III

PRESENTATION COMMUNICATION NO. 07-177

Jeff Amerman, Finance & Budget Director, requesting time on March 21, 007 agenda for presentation on proposal to modify the B-SB budget document to conform to Government Finance Officers' Association criteria.

Amerman noted that he'd received an unsolicited proposal 2 years ago from Miral Gamradt of Bozeman re. GFOA, the gold standard of financial reporting. He noted that Danette Gleason was integral to the budget process but with her exit, he sees this as an opportunity to make changes in the F&B Department. The services would be a 2-year contract at \$8,000/year to modify the 07-08 and 08-09 budget documents making the department self-reliant.

Amerman noted the current document, created by Gary Rowe in the 80s is in an Access database, which he said is tough to follow and understand. He did note that with Danette Gleason's knowledge and experience, B-SB did receive the GFOA Award for 16 years, but Amerman wants the budget document to come in line with the CAFR (Comprehensive Annual Financial Report). Amerman's goal is to get the GFOA award; there are four cities in MT that received it now. He also stated that financial policies will be in place, providing more credibility. Amerman noted his thought that the changes will help Council manage dollars better; budgeting by outcome.

Miral Gamradt only takes two clients/year and his work has been reviewed by attorneys in Missoula County. Amerman indicated a contract will be presented for approval on April 4, 2007.

Commissioner O'Leary asked Amerman whether the budget document will shrink as a result of the work. Amerman responded that it will grow even larger and will be posted on the Internet with charts, graphs, pie charts, etc., but the underlying information will still be in place. Commissioner Shaw asked how the document will be more accessible to the general public. Amerman noted it will be in the office of the Clerk & Recorder, at the Library, on the Internet and also that the current document format does meet the legal requirements of governmental reporting.

Commissioner O'Leary questioned whether the new format will be user friendly for staff turnovers. He also questions whether the situation will improve since Council never approves the budget until August. Amerman responded that we're still at the mercy of the State due to State not having to provide us the certified values of mills until the first week of August. Amerman continued, saying we're at risk for turnovers, but he plans to have three staff have hands-on with this format in Excel and Word; Access will go away, decreasing the risk.

Commissioner Sorich questioned whether his understanding is correct that the change of format of the budget document will not eliminate any positions in his department. Amerman responded: "absolutely correct, but this is a opportunistic time to move forward". He indicated 3 staff will be trained this year and one added next year when budget authority to do so is granted.

Chief Executive Babb noted that the F&B Department only has one person in payroll and if he were to leave or was gone, B-SB would have a difficult time getting payroll done timely. Babb also noted that with the Internet site being updated the information will be available to the public at all times.

It was moved by Commissioner O’Leary, seconded by commissioner Lee and carried by a unanimous verbal vote to place Communication No. 07-177 on file.

SECTION IV

PRESENTATION COMMUNICATION NO. 07-178

Norm DeNeal, requesting time to solicit support for return of Civil War cannon.

Norm DeNeal of 2001 Porter discussed the coastal defense cannon, which by an 1896 Act of Congress was brought to Butte. In 1960, the ACM gave the cannon to the Fort Sill Oklahoma military museum, but had no authority to do so. DeNeal provided a detailed history including a letter written by Wm. A. Clark as to ownership of the cannon. DeNeal felt the honor of the Civil War vets is negated by their passing and that the cannon was for many years a Butte icon. He noted that it was shot at midnight and 9 AM on July 4th for 40 years.

Commissioner Lee questioned whether Council should contact a U.S. Senator in the effort to get it back. DeNeal noted he’d already sent letters to Sen. Baucus and former Sen. Burns and was told by Fort Sill that any item, once in possession of the government, belongs permanently to the government, but he questioned whether such a law exists.

Commissioner Sheehy questioned the cost to ship. DeNeal noted the cannon weight at 3 tons and can’t be shipped by rail; would have to be trucked.

Commissioner Lee asked if the cannon is part of the Civil War National Registry of Artillery. DeNeal responded that the cannon was not designed for the Civil War and in fact, may not be a relic of the Civil War.

Commissioner O’Leary stated that DeNeal’s research must be accurate and questioned whether the historic letters he has are accurate and authentic. DeNeal noted the information came from the B-SB and State archives. O’Leary asked if the research has been examined by local historians to which DeNeal responded “No”.

Commissioner Shaw stated that an attorney told her that if Fort Sill is a non-profit, they cannot be military. DeNeal noted that the Fort Sill Museum is part of the Department of the Army. He noted this has been a 3-year effort and that Butte has lost most of our historical artifacts. He noted that Denny Dutton has offered to drive to Fort Sill and transport the cannon back at no cost to B-SB.

Chief Executive Babb mentioned the Historic Preservation Committee; perhaps we could place other artifacts instead of the cannon. He recommended using Ellen Crain and Mark Reavis to evaluate then give Council direction on moving forward.

Commissioner O'Leary asked Commissioner Shaw if she would like to serve on the committee to which she agreed.

It was moved by Commissioner O'Leary, seconded by commissioner Lee and carried by a unanimous verbal vote to refer the matter to the Historic Preservation Board (Reavis and Shaw) and place Communication No. 07-178 on file

SECTION V

CONSENT AGENDA

- A.**
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT**
 - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT**
 - 3. JUDICIARY COMMITTEE MEETING REPORT**
 - 4. PUBLIC WORKS COMMITTEE REPORT**

- B.** Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for friendly amendments and segregations.

Commissioner O'Leary segregated Section VIII, Communication No. 07-147 of the Committee of the Whole Report.

Commissioner O'Leary then moved for adoption of the Consent Agenda, Section V-A, 1-4 and Section V-B, items 1-25 with the noted segregation by O'Leary of Section VIII, Communication No. 07-147 of the Committee of the Whole Report. The motion was seconded by Commissioner Lee and carried by a unanimous verbal vote.

SEGREGATED ITEM

COMMUNICATION NO. 07-147 – Paul Babb, Chief Executive, requesting concurrence in appointments to the Law Enforcement Commission.

It was moved by Commissioner O'Leary, seconded by commissioner Lee and carried by a unanimous verbal vote to place Communication No. 07-147 on file in light of Mr. Babb's earlier comments, allowing the Law Enforcement Commission to get back on track.

COMMUNICATIONS TO BE READ AND ACTED UPON

07-183 Karen Byrnes, Community Development Director, requesting authorization on behalf of Gary Dryden, permission to remove the lean-to-shed attached to his property at the Concord Apartments at 120 No. Montana Street.

It was moved by Commissioner O’Leary, seconded by commissioner Lee and carried by a unanimous verbal vote to concur with the shed being demolished, but with Public Works doing the work and place Communication No. 07-183 on file.

SECTION VII

ORDINANCES AND RESOLUTIONS REFERRED TO JUDICIARY

1. COUNCIL BILL NO. 07-4
ORDINANCE NO 07-4

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCES NO. 195, 266, 398 AND 04-5 AND TITLE 15 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “BUILDING AND CONSTRUCTION”; AMENDING CHAPTER 15.04 ENTITLED “BUILDING CODE”; AMENDING CHAPTER 15.07 ENTITLED “INTERNATIONAL EXISTING BUILDING CODE”; AMENDING CHAPTER 15.10 ENTITLED “FIRE CODE”; AMENDING CHAPTER 15.14 ENTITLED “MECHANICAL CODE”; AMENDING CHAPTER 15.15 ENTITLED “INTERNATIONAL FUEL CODE”; AMENDING CHAPTER 15.16 ENTITLED “PLUMBING CODE”; AMENDING SECTION 15.04.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL BUILDING CODE AND APPROPRIATE ARM CHANGES; AMENDING SECTION 15.04.075 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE, AMENDING SECTION 15.07.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL EXISTING BUILDING CODE, AMENDING SECTION 15.10.010 AND ADOPTING THE 2003 EDITION OF THE NFPA 1 UNIFORM FIRE CODE; AMENDING SECTION 15.14.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL MECHANICAL CODE, AMENDING SECTION 15.15.010 AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL FUEL CODE AND AMENDING SECTION 15.16.010 AND ADOPTING THE 2006 EDITION OF THE UNIFORM PLUMBING CODE AND DELETING APPENDIX H AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 07-16

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF CERTAIN PARCELS OF TAX DEEDED REAL PROPERTY OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3. COUNCIL RESOLUTION NO. 07-18

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW HEALTH DEPARTMENT FROM THE STATE OF MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO BE EXPENDED IN THE BUTTE-SILVER BOW HEALTH DEPARTMENT FUND FOR FAMILY PLANNING TITLE X SERVICES, AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

NOTE: THE TWO FOLLOWING RESOLUTIONS (07-19 AND 07-20) WERE ON THE AGENDA FOR REFERRAL TO JUDICIARY. HOWEVER, COMMISSIONER O'LEARY NOTED THESE WERE SUPPOSED TO BE ON TONIGHT'S AGENDA UNDER SUSPENSION OF THE RULES FOR FINAL PASSAGE WITHOUT REFERENCE TO JUDICIARY. CLERK AND RECORDER McMAHON NOTED THAT HER OFFICE HAD NOT RECEIVED THE SUSPENSION OF THE RULES NOTICE FROM THE COUNTY ATTORNEY'S OFFICE FOR TONIGHT'S MEETING.

ON A MOTION BY COMMISSIONER O'LEARY, SECONDED BY COMMISSIONER LEE, RESOLUTIONS 07-19 AND 07-20 WERE PULLED FROM TONIGHT'S AGENDA WITH NO ACTION TAKEN AND HELD FOR A SPECIAL MEETING FOR PASSAGE ON MARCH 28, 2007.

4. COUNCIL RESOLUTION NO. 07-19

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION WITH THE DEPARTMENT OF COMMERCE OF THE STATE OF MONTANA FOR A 2007 MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT FROM THE ECONOMIC DEVELOPMENT PROGRAM GRANT TO ASSIST THE MASTERS GROUP INTERNATIONAL, LLC UNDER THE TERMS OF THE COMMUNITY DEVELOPMENT ACT OF 1974 (42 USC 5301) AS AMENDED.

5. COUNCIL RESOLUTION NO. 07-20

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION WITH THE DEPARTMENT OF COMMERCE OF THE STATE OF MONTANA FOR A 2007 MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT FROM THE ECONOMIC DEVELOPMENT PROGRAM GRANT TO ASSIST THE PANTERRA MINERALS, LLC UNDER THE TERMS OF THE COMMUNITY DEVELOPMENT ACT OF 1974 (42 USC 5301) AS AMENDED.

SECTION VIII

ORDINANCES AND RESOLUTIONS – FINAL READING

1. COUNCIL BILL NO. 07-3 ORDINANCE NO. 07-3

AN ORDINANCE AMENDING CHAPTER 10.52.020 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED “PARKING”; AMENDING SECTION 10.52.020 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); PROVIDING THAT PARKING BE PROHIBITED ALONG THE WEST CURB LINE OF FARRAGUT AVENUE A DISTANCE OF 60 FEET NORTH FROM ITS INTERSECTION WITH AMHERST AVENUE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 07-11

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE WOODARDS MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3. COUNCIL RESOLUTION NO. 07-12

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE WHISKEY GULCH MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

4. COUNCIL RESOLUTION NO. 07-14

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE RML MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

5. COUNCIL RESOLUTION NO. 07-15

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE BELLA ESTATES MAJOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

SECTION IX CALENDAR OF OTHER MEETINGS AND EVENTS

Commissioner Shaw noted that the Historic Preservation Commission now meets at noon on the first Tuesday of each month at the Health Department.

OTHER

Chief Executive Babb mentioned that the Compensation and Classification Study is under way with Fox Lawson. Commissioner O'Leary noted that the PDQ was confusing; that the consultant could get one or 12 responses from Council. Mr. Babb noted that he prefers a collaborative effort in the response from Council.

Commissioner Sheehy noted that Jack Hanley and Kiwanis have scheduled a clean-up in the area of Butte High School and the Silver Bow Homes on Saturday, April 7th. Mr. Sheehy also commended the Law Enforcement Division for their work on St. Patrick's Day. Captain George Skuletich requested a thank you letter from Mr. Babb to the Montana Highway Patrol for their assistance. Capt. Skuletich noted the MHP provides manpower not only on St. Patrick's Day, but also for Evel Knievel Days as well.

Finally, Council determined there would be no meeting on May 30, 2007.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by unanimous verbal vote to Rose to the Call of the Chair

The meeting adjourned at 9:28 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER